

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Lee O'Connell,

Plaintiff,

ORDER

-against-

18 Civ. 10546 (AEK)

Andrew Saul,¹
Commissioner of Social Security,

Defendant.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

The Court has reviewed Plaintiff's May 27, 2021 letter requesting remand to the Commissioner of Social Security for a new hearing. ECF No. 28. The letter appears to be a response to the Court's May 10, 2021 order, which directed Plaintiff to submit a letter setting forth his position on remand, along with any legal arguments in support of that position, in light of the Supreme Court's recent decision in *Carr v. Saul*, 141 S. Ct. 1352 (2021). *See* ECF No. 27. Yet Plaintiff's response does not address the Appointments Clause issue raised in *Carr*, and instead repeats arguments made in earlier submissions. As a result, the Court still does not know Plaintiff's position regarding a potential remand based on the Appointments Clause.

Accordingly, Plaintiff is directed to submit a letter by **Thursday, June 3, 2021**, specifically addressing whether Plaintiff seeks remand at this time based on the Appointments Clause issue discussed in *Carr*.

As noted in ECF No. 27, should Plaintiff elect not to request a remand on the Appointments Clause issue at this stage, this may constitute a waiver of the Appointments

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Andrew Saul has been substituted as Defendant in this action.

Clause challenge in all further proceedings, including appeals. That said, a decision not to request a remand will not prejudice the Plaintiff in any way before this Court, nor will it affect the timing of this Court's decision on the pending motions in this matter should the case remain in federal court.

Dated: May 28, 2021
White Plains, New York

SO ORDERED.

A handwritten signature in black ink, appearing to read "Andrew Krause", written in a cursive style.

ANDREW E. KRAUSE
United States Magistrate Judge